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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
SONY BMG MUSIC ENTERTAINMENT,
a Delaware partnership,
Defendant.

CASE NO.:
**FINAL JUDGMENT AND
PERMANENT INJUNCTION**

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, having filed its complaint
herein; and Defendant SONY BMG MUSIC ENTERTAINMENT, a Delaware partnership,
having accepted service thereof; and

1 Plaintiff appearing through its attorneys Bill Lockyer, Attorney General of the State of
2 California, Albert Norman Shelden, Senior Assistant Attorney General, and Catherine Z. Ysrael
3 and Lori J. Forcucci, Deputy Attorneys General, and Steve Cooley, District Attorney for the
4 County of Los Angeles, Thomas A. Papageorge, Head Deputy District Attorney, and Jonathan P.
5 Fairtlough and Jeffrey A. McGrath, Deputy District Attorneys, and Defendant SONY BMG
6 Music Entertainment, a Delaware partnership (hereinafter sometimes “SONY BMG”) through its
7 counsel Debevoise & Plimpton LLP, by Jeremy Feigelson, Esq., and Gibson, Dunn and Crutcher
8 LLP, by Gail Lees, Esq.; and

9 Plaintiff and Defendant having stipulated and consented to the entry of this Final
10 Judgment and Permanent Injunction prior to the taking of any proof, and without trial of any fact
11 or law herein, and without this Judgment constituting any admission by Defendant regarding any
12 issue of fact or law alleged in said complaint; and

13 The Court having considered the pleadings;

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff have
15 judgment against the Defendant as follows:

16 17 **JURISDICTION**

18 1. This action is brought under the laws of the State of California and this Court has
19 jurisdiction of the subject matter hereof and the parties hereto.

20 21 **DEFINITIONS**

22 2. For the purposes of this Final Judgment, the following definitions shall apply:
23 a. “CD” means compact disc used to store digital audio recordings.
24 b. “Clear and Conspicuous” or “Clearly and Conspicuously” means a
25 statement that, regardless of the medium in which it is made, is readily understandable and
26 presented in such size, color, contrast, duration, and location, compared to the other information
27 with which it is presented, that it is readily apparent to the person to whom it is disclosed. A
28 statement may not contradict or be inconsistent with any other information with which it is

1 presented. If a statement is necessary to prevent other information from being misleading or
2 deceptive, then the statement must be presented in proximity to that other information, in a
3 manner that is readily noticeable, readable, and understandable, and it must not be obscured in
4 any manner.

5 c. “Computer” means any machine with a central processor and a memory
6 function capable of computing functions and storing or receiving information, including, but not
7 limited to desktop devices, laptop or portable devices, personal digital assistants, minicomputers
8 or other such devices.

9 d. “Digital Rights Management Software” or “DRM” means any software, either
10 residing on a CD or otherwise placed from an external source on a computer, player or machine that
11 implements the software, which software acts to limit, control, track or otherwise manage an end
12 user’s use of the intellectual property, copyright, or trademark rights of the artist or provider.

13 e. “EULA” means end-user license agreement.

14 f. “Outer CD Package” means the cover or packaging in which the CD is
15 sold, including the plastic case and any cardboard insert, which is visible to the purchaser at the
16 time of purchase. For the purposes of this definition, disposable covering or packaging materials
17 which are routinely discarded by the user after purchase (such as cellophane or shrink-wrap
18 coverings), shall not be considered part of the “outer CD package.”

19 g. “Released” means manufacturing, distributing, or otherwise placing in the
20 stream of commerce.

21 **APPLICABILITY**

22
23 3. Except as otherwise specifically provided, the provisions of this Judgment are
24 applicable to Defendant SONY BMG Music Entertainment, and to its subsidiaries, officers,
25 employees, agents, representatives, successors and assigns, and all persons acting in concert or
26 participation with them or any of them in the conduct of the business of SONY BMG with actual
27 or constructive notice of this Judgment. This Final Judgment applies to CD titles Released after
28 the date of this Final Judgment for which SONY BMG controls the master files. CDs distributed

1 by SONY BMG on behalf of a third party, where such third party is not an affiliate of Sony
2 BMG and controls the master files, are not subject to the provisions of this Judgment.

3 4 INJUNCTION

5 4. Defendant SONY BMG, and all those persons and entities described in paragraph
6 3 of this Judgment, are permanently enjoined and restrained from directly or indirectly doing any
7 of the following:

8 a. Making any untrue or misleading statement in violation of Business and
9 Professions Code section 17500 in connection with the manufacture, sale, or distribution of any CD in
10 California.

11 b. Engaging in unfair competition within the meaning of Business and
12 Professions Code section 17200 in connection with the manufacture, sale, or distribution of any CD in
13 California.

14 c. Engaging in any conduct which violates California Penal Code section 502 in
15 connection with the manufacture, sale, or distribution of any CD in California.

16 d. Manufacturing, distributing, or otherwise placing in the stream of
17 commerce any CD containing Digital Rights Management Software that employs any technology
18 or any method to hide or cloak any file, directory, or registry entry in such a manner that a user
19 cannot locate such file, directory, or registry entry through “standard and ordinary methods”
20 available on the Computer operating system. Methods of hiding or cloaking files that are
21 prohibited include, but are not limited to, creating any random or deceptive file name, directory
22 folder, format, or registry entry; and misrepresenting the purpose or effect of any file, directory
23 folder, format or registry entry. “Standard and ordinary methods” for the purposes of this
24 Judgment shall include methods normally made available to the consumer to view files,
25 including hidden files, without specific knowledge or expertise by the consumer. “Standard and
26 ordinary methods” do not include concealing files from the graphic interface of the Microsoft
27 Windows operating system, regardless of security settings, such that a consumer can only view
28 the files through the command prompt, and therefore such concealment shall not be used.

1 e. Manufacturing, distributing, or otherwise placing in the stream of
2 commerce any CD containing Digital Rights Management Software that is not readily removable
3 either through the standard Add/ Remove Programs tool in Windows or through an uninstall
4 program which is readily available on the CD to the consumer without any restriction or
5 requirement. By either means, uninstallation shall result in removal of all components of the
6 installed software, provided that the uninstall process need not erase information or data stored
7 on the computer that is essential to protect against evading content protection, such as
8 information regarding whether the user had reached the limit of permitted copies of the covered
9 product prior to uninstalling the content protection.

10 f. Manufacturing, distributing, or otherwise placing in the stream of
11 commerce any CD containing Digital Rights Management Software that tracks, limits, or
12 controls the transfer or use of music files, unless the Outer CD Package Clearly and
13 Conspicuously discloses, at a minimum, the following:

14 (1) Which operating systems are required to play the CD or use the “Digital
15 Rights Management Software;”

16 (2) That the use of the CD on a computer requires acceptance of terms of an
17 “End User License Agreement” and requires “Digital Rights Management Software” to be
18 installed on the hard drive, if true;

19 (3) If a EULA must be accepted, the Outer CD Package shall provide SONY
20 BMG’s Web site where the consumer may find the full terms and conditions of the EULA on the
21 Web site and information explaining the limitations on the use of the CD that will result if the
22 user declines the EULA;

23 (4) The number of copies, if limited, that can be made of the CD;

24 (5) The audio file formats or playback devices, if limited, that the contents of the
25 CD can be directly transferred to; and

26 (6) The URL of the website that consumers can visit for additional information
27 about the DRM software or other features of the CD. The identified website will include
28 information regarding items (1) through (5) above, as well as, where applicable, customer

1 service contact information and information about the specific file formats to which the CD
2 audio files may be converted for personal use

3 g. Manufacturing, distributing, or otherwise placing in the stream of
4 commerce any CD containing Digital Rights Management or other software that tracks, collects,
5 or retains information about the use of SONY BMG's intellectual property by the user or any
6 personally identifiable information about the user, which software communicates such
7 information directly or indirectly to SONY BMG or any affiliated entity, unless the user has
8 expressly consented thereto.

9 h. Manufacturing, distributing, or otherwise placing in the stream of
10 commerce any CD containing Digital Rights Management Software that is first Released 90 days
11 or more after the date of this Judgment and allows for any form of an Internet connection
12 without: (1) Clear and Conspicuous notice of the connection; (2) a required affirmative act by
13 the user, prior to each time a connection is made, authorizing that connection; and (3) a
14 meaningful opportunity for the user to decline the connection. The re-release of any CD
15 containing Digital Rights Management Software, which CD had been Released prior to the date
16 of entry of this Judgment, shall be included within the prohibitions and requirements of this sub-
17 paragraph.

18 i. During the first year after entry of this Judgment during which SONY
19 BMG distributes any CDs containing Digital Rights Management Software, manufacturing,
20 distributing, or otherwise placing in the stream of commerce any CD containing Digital Rights
21 Management Software which installs on the hard drive of the user's Computer that does not
22 contain a printed disclosure inside the package in which the CD is sold of the type known in the
23 industry as a blow-in card, that discloses in English or, in the case of products marketed to
24 Spanish-speaking customers, in English and Spanish:

25 (1) That a computer program or files must be installed on the consumer's
26 computer in order for the consumer to listen to, copy, or transfer the music via that computer, if
27 true, and a description of the function of the computer program or files and its/their installation
28 size;

1 (2) That the CD includes DRM Software, and a specific description of the
2 limitations, if any, that such DRM Software imposes on the use of the CD (e.g., the limited
3 number of copies that the DRM software permits a consumer to make);

4 (3) A reference to a hyperlink or other source where consumers may obtain
5 information about specific file formats, if limited, to which the musical content of the CD may be
6 converted;

7 (4) That a consumer will be required to accept the terms and conditions of a
8 license agreement prior to being able to listen to or otherwise access the CD on a computer, if
9 true; and

10 (5) A reference to a hyperlink or other source where consumers may obtain any
11 recommended updates or patches, including but not limited to security patches.

12 j. Manufacturing, distributing, or otherwise placing in the stream of
13 commerce any CD containing Digital Rights Management Software that has a mandatory end-
14 user license agreement (EULA) unless the EULA is displayed prior to the installation of any
15 software, is in English and Spanish, and contains the following information:

16 (1) In a bold outlined box at the top of the EULA, set apart from the text of the
17 EULA and which displays when the CD is first placed in the user's Computer, a Clear and
18 Conspicuous disclosure of the information set forth in the printed insert described in
19 subparagraph i of this paragraph;

20 (2) In Clear and Conspicuous language the option to refuse the installation of the
21 Digital Rights Management Software on the user's Computer by means of an "I accept" or "I
22 reject" button (hereafter sometimes "click box"). This click box shall appear at the end of the
23 EULA such that the user cannot click the click box until the user is able to review the entirety of
24 the EULA. The click box cannot be pre-selected to "I accept." If the "I reject" button is
25 selected, the CD shall automatically be ejected from the Computer;

26 (3) In Clear and Conspicuous language, the range of computer system resources,
27 if any, which the DRM software may consumer after installation when the CD is not in use on
28 the computer (e.g., "between .5% and 3% depending on the configuration of your computer");

1 (4) In Clear and Conspicuous language, the information, including but not
2 limited to an Internet Protocol address, which the CD may transmit across the Internet if it is a
3 CD that allows for an Internet connection; and

4 (5) Any EULA used by SONY BMG cannot contain any statements that
5 contradict or obfuscate the disclosures required by the above sections, nor may the EULA
6 contain any misleading information about the DRM software.

7 k. Failing to continue, for at least 12 months from the date of entry of this
8 Judgment, SONY BMG's existing program of "keyword buys" on major search engines,
9 designed to inform consumers about the XCP and MediaMax security
10 issues and to encourage use of the online software patches and uninstallers.

11 l. Failing to provide, for at least two years from the date of this Judgment, Clear
12 and Conspicuous and easily navigable instructions on SONY BMG's Web site for uninstalling the
13 XCP and MediaMax software. If the instructions appear in a hyperlink, the link shall be Clearly and
14 Conspicuously identified on the first page of the Web site and the list of the affected CDs shall either
15 appear on the first page or the method for obtaining the list shall be Clearly and Conspicuously
16 identified and the list shall be easily accessible from the first page of the Web site. The uninstall
17 instructions shall be clearly written and easy to access and implement. A toll-free number or online
18 technical support shall be provided to assist consumers in the process of uninstalling or modifying the
19 software or with any related questions or concerns.

20 m. Manufacturing, distributing, or otherwise placing in the stream of commerce
21 any CD that contains any form of Digital Rights Management Software unless, prior to the adoption of
22 any end-user license agreement to be used in such CDs, the end-user license agreement shall be
23 reviewed for clarity, readability, and ease of understanding by an independent third party.

24 n. Manufacturing, distributing, or otherwise placing in the stream of commerce
25 any CD that contains any form of Digital Rights Management Software unless the software to be
26 installed on the consumer's Computer has been reviewed for security risks and approved by an
27 independent third party possessing relevant expertise in Computer security.

o. Failing to immediately disclose to any consumer of a SONY BMG CD any material security risk, which is confirmed after a prompt and reasonable inquiry, in software contained in, installed from, or available for installation on a SONY BMG CD.

q. Manufacturing any Digital Rights Management Software to be placed on a SONY BMG CD unless such software complies with the provisions of this injunction.

5. For the purpose of ensuring compliance with the injunctive provisions of this Final Judgment, and for a period of five years from the date of entry of this Final Judgment, Defendant SONY BMG shall provide to each director or manager with relevant responsibilities a copy of the injunctive terms of this Judgment. A list of the names of each such director or manager, and a signature or other indication that the director or manager received a copy of the injunctive terms, shall be maintained by SONY BMG and shall be provided to duly authorized representatives of the Plaintiff upon reasonable notice.

6. Defendant SONY BMG Music Entertainment shall comply fully with the XCP and MediaMax exchange and compensation program terms contained in the class action settlement approved by the court in In re SONY BMG CD Technologies Litigation, No. 05 CV 9575 (NRB) (S.D.N.Y.) (May 24, 2006).

1 on SONY BMG's Web site and subject to the approval of the attorneys for plaintiff the People in
2 this action. The form when submitted must (i) be sworn to under penalty of perjury, (ii) be
3 accompanied by documentation of out-of-pocket repair expense incurred prior to March 1, 2006,
4 (iii) include a description of the nature of the harm allegedly caused by the installation, and (iv)
5 grant a complete release to SONY BMG, including its affiliates. SONY BMG may, in its
6 discretion, accept or reject any claim for compensation that fails to meet all of the requirements
7 of (i) through (iv) above or otherwise to establish a reasonable relationship between the
8 installation, use, or attempted removal of the DRM software and the alleged harm. Copies of
9 any rejection shall be provided to the attorneys for the People in this action.

10 11 **MONETARY RELIEF**

12 8. Within ten days after the date of entry of this judgment, Defendant shall pay to
13 Plaintiff the sum of \$750,000 as the total monetary relief in this matter.

14 a. Of this total, \$622,000 shall be paid pursuant to Business and Professions
15 Code sections 17206 and 17356 and shall be divided equally between the Los Angeles District
16 Attorney's Office and the California Attorney General's Office. Payment shall be made by two
17 certified checks in the amount of \$311,000 each, made payable respectively to "The Los Angeles
18 County District Attorney" (to be delivered to Deputy District Attorney Jonathan Fairtlough, 201 N.
19 Figueroa Street, Suite 1200, Los Angeles, CA 90012), and to "California Attorney General's Office"
20 (to be delivered to Deputy Attorney General Lori J. Forcucci, 110 West A Street, Suite 1100, San
21 Diego, CA 92101).

22 b. Of this total, \$128,000 shall be paid as the costs of the District Attorney of Los
23 Angeles County and the California Department of Justice, and shall be paid by two certified checks in
24 the amount of \$64,000 each, made payable respectively to "The Los Angeles County District
25 Attorney" (to be delivered to Deputy District Attorney Jonathan Fairtlough, 201 N. Figueroa Street,
26 Suite 1200, Los Angeles, CA 90012), and to "California Attorney General's Office" (to be delivered
27 to Deputy Attorney General Lori J. Forcucci, 110 West A Street, Suite 1100, San Diego, CA 92101).

1 **RELEASE**

2 9. This Judgment shall have a res judicata effect and shall bar any civil action by
3 Plaintiff the People of the State of California, against Defendant SONY BMG Entertainment,
4 and its subsidiaries, officers, employees, agents, representatives, affiliates, successors, and
5 assigns pertaining to the unlawful installation of Digital Rights Management Software on the
6 Computers of consumers of SONY BMG CDs, and any security- or disclosure-related conduct
7 involving such software, as described in the Complaint filed contemporaneously with this Final
8 Judgment, which acts occurred prior to the date of entry of this Judgment.

9
10 **RETENTION OF JURISDICTION**

11 10. Jurisdiction is retained for the purpose of enabling any party to this Judgment to
12 apply to this Court at any time for such further orders and directions as may be necessary or
13 appropriate for the construction or carrying out of the injunctive provisions of this Judgment, for
14 the enforcement and compliance herewith, and for the punishment of violations hereof.

15 11. This Final Judgment, including the permanent injunctive terms contained herein,
16 shall take effect immediately upon the entry thereof, and SONY BMG shall have ninety (90)
17 days from the date of entry of this Judgment to implement the permanent injunctive terms
18 contained herein.

19
20 DATED: December 19, 2006

21 JUDGE OF THE SUPERIOR COURT
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